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Recent Publications of the Children's Bureau on Adoption and Guardianship

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to parole were returned to facilities of the Youth Authority. All results have not been successful, but the short experience of the Youth Authority indicates that the methods now employed by the Authority are highly beneficial and are paying dividends as expected by the legislature when it created this new agency.

RECENT PUBLICATIONS OF THE CHILDREN'S BUREAU ON ADOPTION AND GUARDIANSHIP

GUARDIANSHIP—A WAY OF FULFILLING PUBLIC RESPONSIBILITY FOR CHILDREN. By Irving Weissman in association with Laura Stolzenberg, Harry S. Moore, Jr., and Robbie W. Patterson. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 54 cents.

ESSENTIALS OF ADOPTION LAW AND PROCEDURE. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 15 cents.

The needs of the child as an individual member of our society receives scant consideration under the guardianship laws of the United States.

That is the conclusion of a study "Guardianship—A Way of Fulfilling Public Responsibility for Children," recently completed by the Federal Security Agency of the Social Security Administration. The study was based upon records and cases in 12 selected courts in the states of California, Connecticut, Missouri, Florida, Michigan, and Louisiana.

The courts, where the problem of guardianship is involved, have generally considered the minor's estate and not his personal welfare, as the most important problem before them. And the Federal Security Agency survey report indicates the courts have frequently done a poor job in safeguarding the minor's interests even in this respect.

Specifically, the report charges that appointment of guardians is made in a perfunctory manner, the courts are poorly equipped to give proper attention to guardianship cases, supervision of the guardian after appointment is lax, and the great increase in the number of children becoming financial beneficiaries of veterans' and social-security programs has greatly complicated the problem during the past decade.

In a brief historical summary of guardianship laws, the survey discloses that these laws have tended to remain static, with few changes of any kind since such laws were originally adopted by the states included in the survey.

"The only changes in guardianship laws for more than a century have been to recognize the rights of the mother in her chil-

dren, to restrict the father's power of testamentary appointment, and to remove the disabilities for guardianship under which married women have suffered," the report states.

"As a consequence of this neglect," it continues, "the guardianship laws are probably the most archaic laws relating to children on the statute books of the states. Examination of the laws of the states included in the study disclose inadequacies of structure as well as substance."

The lack of uniformity among the states, and of any certainty of the law in some of the particular states studied, is complicated by the fact that provisions relating to guardianship of children are usually scattered throughout the statute books. Such provisions may be found in chapters governing estates, adoption, probate laws, and laws affecting real and personal property and trusts.

Another factor that has led to difficulty in interpretation and administration of guardianship laws is the failure therein to distinguish between the minor who is incompetent because of immaturity, and the incompetent adult, who has been adjudged insane, feebleminded, an alcoholic, or a spendthrift.

Once the guardian has been appointed, he is frequently left to his own devices in carrying out the duties of his office. Inability to distinguish clearly between guardianship of person and guardianship of estate appeared to be a common source of misunderstanding and difficulty, the report states.

So far as could be learned, the courts in most instances had not explained the office (of guardian) or provided instructions for the guardian to go by. In consequence, some guardians appeared to have distinctly individual conceptions of their job, and some these were definitely misconceptions.

LAXITY IN REQUIRING REPORTS

This lack of instruction to the guardian on his appointment was followed up in many instances by a surprising laxity in requiring reports from the guardians.

Although guardianship actions are predominantly concerned with the estates of children, it was surprising to discover that the courts often lacked definite record of the nature and value of the property which was turned over by them to guardians and for which they are supposed to hold the guardians accountable and liable.

Lack of supervision is even more pronounced where guardianship of the person is involved. The survey reported that none of the courts studied maintained any supervisory contact with guardians of person or in any way required them to account for their stewardship.

The 2,282 cases involving estates included in the survey showed a lack of descriptive information in the court records in from 20 to 25 per cent of the cases. While total figures are im-

pressive, the usual guardianship estate is small. Forty per cent of the cases reported involved amounts of \$500 or less; estates ranging from \$1,000 to \$2,500 accounted for 21 per cent of the cases; estate of \$25,000 or more comprised only one per cent of the cases studied. The bulk of cases originated with the Veterans Administration, usually involving relatively small monthly benefit payments or cash settlements.

On the whole, costs of guardianship were not found to be excessive. In the cases studied it was found they ranged from five up to about 50 per cent of the total value of the minor's estate at the time the guardian was appointed. The higher relative costs were generally found where small estates were involved. Numerous cases of needless appointment of a guardian, with its attendant costs, were noted.

Attorney's fees were usually found to range from five to ten percent of the value of the estate, ranging somewhat higher percentage-wise where small estates were involved. Veterans Administration claims are limited in some states to a maximum of \$25 for attorney's fees.

While the Federal Security Agency report does not recommend the appointment of a guardian for every child who lacks parental guardianship, it does urge increased attention by the courts to the need for guardianship of the person, as distinguished from guardianship of the estate. A special court proceeding tailored to this end is recommended, preferably to be administered by a court of general jurisdiction in children's cases instead of in probate courts, as is usually the case. The court conducting the proceeding for the appointment of a guardian of the person should have the benefit of advice of local social services under direction of the state welfare department.

The report recommends the guardian of the person should be entitled to act for the child when the child's whole estate is valued at \$500 or less, or consists of \$50 or less per month. Where a larger estate is involved, the survey recommends that the guardian of the person be allowed to handle it wherever feasible. However, it urges that appointment of guardians for the estate be made by a court of record; that an inventory of the estate should be required; and that adequate supervision be given, with periodic accounts and inventories a prime requirement.

THE ESSENTIALS OF ADOPTION

Closely allied to the problem of guardianship is that of adoption. In a brief pamphlet, "Essentials of Adoption Law and Procedure," the Federal Security Agency presents its suggestions on what a modern statute on adoption should include.

The agency does not urge the adoption of these recommenda-

tions in toto, and does not recommend its proposals as a uniform adoption law. Rather the recommendations are offered as a basis of study of present state statutes to see if they adequately meet requirements for the protection of the child, his natural parents, and the adopting parents.

In the main, the adoptive procedures recommended are designed to do away with the evils brought about by a lack of supervision of adoptions by the state and its courts, particularly as to those children born out of wedlock. This would be achieved by legislation requiring court sanction of voluntary relinquishment or surrender of parental rights, social investigations of the background of the child and the prospective adoption home, and for a period of residence of the child in the home under the supervision of an agency qualified to place children.

Step by step, the pamphlet outlines the contents of a model law designed to protect the interests of the child, his natural parents, and the adoptive parents. Each of the proposals is the subject of a brief discussion. The proposals must be keyed to the needs of the individual states, the agency warns.

Each state must consider its own special needs and situations and determine whether its court system and the structure and state of development of its welfare program make it advisable for that state to follow closely the suggestions given or whether certain deviations may be necessary.

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VA POLICY IN PAYING ATTORNEYS FEES ON FORECLOSURE OF GI LOANS

The Minimum Fee Committee of the Denver Bar Association, under the chairmanship of Merrill A. Knight, recently had a conference with officials of the Regional Loan Guaranty Office of the Veterans Administration concerning the matter of fees paid for foreclosure on G. I. loans. The substance of the Veterans Administration's position on this matter, which would become of increasing importance to lawyers should economic conditions take a turn for the worse, was summarized so well by Loan Guaranty Attorney Harold F. Mudge in a letter to Mr. Knight, that *Dicta* is printing Mr. Mudge's letter in its entirety for the benefit of interested parties:

"Reference is made to the conference held with your Committee in the office of the Loan Guaranty Officer at the Veterans